IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4501 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE KSHITIJ R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SATISHKUMAR C DAVE

Versus

DIVISIONAL CONTROLLER

Appearance:

1. Special Civil Application No. 4501 of 1987

MR MUKESH H RATHOD for Petitioner No. 1

MR HARDIK C RAWAL for Respondent No. 1

CORAM : MR.JUSTICE KSHITIJ R.VYAS

Date of decision: 20/06/2002

ORAL JUDGEMENT

The petitioner in this petition under Article 227 of the Constitution of India, has challenged the award of the Labour Court, Rajkot, passed in Reference (LCR)

No.697 of 1983 dated 29th March 1985 whereby the Labour Court set aside the order of dismissal passed against the petitioner and directed the respondent Corporation to reinstate the petitioner to his original post with continuity in service without backwages within one month from the date of publication of the award.

2. The petitioner, at the relevant time, was serving as a Conductor in Amreli Division of the respondent Corporation. On 22nd August 1981, the petitioner while on duty in a bus going from Vanda to Savarkundla, the bus was checked at Pithavdi and it was found that the petitioner had collected fare from 10 passengers going from Sajal Road to Savarkundla without issuing tickets and that on checking the cash with the petitioner at Savarkundla, he was found in possession of Rs.311/though he should be in possession of Rs.308.70ps. On the basis of the said charge, after holding inquiry against the petitioner, the competent authority, at the end of the inquiry, held the petitioner responsible for the misconduct and imposed the punishment of stoppage of increments for five years. It appears that the reviewing authority took the said decision in review and by its order dated 11th April 1983, dismissed the petitioner from service. The petitioner approached the Labour Court, Rajkot by way of Reference (LCR) No.697 of 1983. The Labour Court, after appreciating the material on record, passed the impugned award as stated above.

3. The present petition is directed against the denial of backwages of the intervening period.

4. I have heard learned Counsel appearing for the parties at length. In the instant case, the Labour Court has held in terms that the petitioner is guilty for the minor misconduct for road-booking and has in fact given the benefit of doubt to the workman with regard to the alleged misconduct. After having done so, considering the facts and circumstances of the case, passed the order withholding the backwages. In my opinion, the discretion exercised by the Labour Court under Sec.11-A of the Industrial Disputes Act, cannot be termed as warranting interference while exercising powers under Article 227 of the Constitution of India.

5. It is not disputed by the learned Counsel that the petitioner is reinstated in service to his original post with continuity of service immediately after the award passed by the Labour Court. In any case, no case is made out warranting any interference with the award passed by the Labour Court. Suffice it to say that I am

in total agreement with the reasoning recorded and the ultimate conclusion arrived at by the Labour Court. There is no substance in the present petition. The same is hereby rejected. Rule is discharged. There shall be no order as to costs.

(Kshitij R. Vyas, J.)

Sreeram.